

3.12.17

Commission's Secretary

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Re: WC Docket No. 06-210

CCB/CPD 96-20

Motion to Suspend the FCC Proceedings on the Transaction Involving Plan ownership transfer from the Inga Companies to CCI. The Commission must interpret only the 4 Inga Companies traffic only, non-plan transfers to PSE and the Penalty Infliction on the Plans Owned by the Inga Companies. The Inga Companies to PSE traffic only non-plan transfer has no controversies within the scope of the original referral and immediate summary decision is appropriate.

1)With this motion petitioners wish to suspend the FCC declaratory rulings in regards to ONLY the transaction involving the Inga Companies and CCI and PSE. In that transaction, the Inga Companies maintained Letter of Agency Status on all end-user location traffic under CCI's plans and then the designated Inga Companies end-user location traffic was transferred to PSE.

2)The Commission should decide the original controversy is moot based upon the facts of the original 1995 declaratory rulings and the June and July 2016 Declaratory Rulings for which Public Comment was requested on 8.11.16 on the 4 Inga Companies (Group Discounts, Inc., Winback & Conserve program Inc., One Stop Financial, Inc. and 800 Discounts, Inc.) 2.1.8 traffic only non-plan transfer directly to PSE and the 3.3.1Q bullet 4 account movement without the plan as indicated in the August 11th 2016 FCC Public Notice sought comments.

3)The Commission should determine the current controversy is moot as there are no controversies/open issues that are within the scope of the original referral. Additionally, AT&T is precluded from raising any defenses for both the Inga Companies to PSE January 1995 traffic only non-plan transfer as well as any violation AT&T engaged in regarding the infliction of shortfall and termination charges penalties in June 1996 against the plans that under the direct Inga Companies to PSE traffic only non-plan transfer would be **owned** by the Inga Companies. The Commission can also decide the case based upon AT&T's violation of the FCC's October 1995 Order to meet the substantial cause test.

4)Petitioners have already submitted evidence in which the Judge Politan explicitly stated that the Inga Companies to PSE direct traffic only non-plan transfer was within the facts of complaint original complaint. That is why the FCC issued Public Notice on 8.11.16 to seek comments on the Inga to PSE traffic only non-plan transfer.

5)Petitioners find this necessary for many reasons. If the FCC does not agree that the Judge Bassler 2006 referral is not moot ---as there are no controversies within the scope of the original referral--- as indicated by the January 12th 2007 FCC Order then the FCC can proceed with only the Inga to PSE direct traffic only transfer.

6)In reviewing the CCI to PSE traffic only transfer the Commission was never asked to determine obligation allocation under 3.3.1Q bullet 4 because the Commission was only interpreting the sole controversy of fraudulent use under 2.2.4.

7)The DC Circuit Court Decision **speculated** that NO OBLIGATIONS would transfer under a 3.3.1 Q bullet 4 delete and add transfer account movement. The Inga Companies and the FCC will be able to clarify for the DC Circuit Court that if 3.3.1Q Bullet 4 was available to it the Inga Companies would have transferred the end-user location commitments.

8)PSE would have been responsible for the bad debt on the accounts transferred. Additionally, the unexpired portion of any applicable pay minimum payment period would also would not have been an issue with a delete and add traffic only account movement scenario.

9)Additionally, because the Inga Companies maintained full Letter of Agency on each end-user location there would not have been the need to seek a written authorization from the end-user location to add the end-users to PSE's plan or any plan.

10) As the evidence indicates AT&T denied any use of 2.1.8 as per Joyce Suek after January 1995 and as the evidence indicates AT&T's counsel Charles Fash advised that 3.3.1Q Bullet 4 was the "proper way" to move accounts; however, Charles Fash stated that substantial traffic only transfers would be denied under fraudulent use.

11)Evaluating the Inga Companies to PSE direct traffic only transfer, as per both 2.1.8 and 3.3.1 Bullet 4 transfer, will enable the Commission to apply the tariff law to a different set of facts that Judge Politan stated were covered by the case complaint. It will enable the Commission to address with the DC Circuit Court that under a 3.3.1Q bullet 4 account movement scenario, the end-user location commitments would transfer with the end-user location accounts that would be moved.

12)It would be able to determine that 3.3.1 Q bullet 4 and 2.1.8 did not contain language in those sections that referred to the 2.2.4 fraudulent use section----by law a rate or regulation and additional condition must be explicitly referred to.

13)The DC Circuit Court Decision only saw that petitioners transferred all the obligations listed within 2.1.8 under the CCI/Inga to PSE traffic only transfer but did not understand that Judge Politan's non-vacated May 1995 Decision and the FCC 2003 Order explicitly stated that PSE was assuming the commitments on the end-user locations being added to its plan.

14)The new set of facts will enable the FCC to make the DC Circuit Court aware of the May 1995 Decision that end-user commitments were being transferred under both 2.1.8 and 3.3.1 Q bullet 4

15)It will put the Commission in a better position to address AT&T counsel fraud; such as mischaracterizing the transaction as a plan transfer etc. The first trip to the DC Circuit necessitated a post oral argument brief to correct the record.

16)It will allow petitioners to be at the DC Circuit during oral argument so as AT&T counsel does not take liberty to again make numerous misrepresentations to the DC Circuit as indicated in petitioners post oral argument brief.

17)If the Commission does not agree that there are no controversies within the scope of the original referral and thus under the Administrative Procedures Act that FCC determines Judge Bassler's referral is moot. The Commission can quickly dispose of the case in any event. The conclusive fact is AT&T concedes it did not deny in writing under 2.1.8 (c) within 15 days the Inga Companies to PSE traffic only non-plan transfer.

18)AT&T counsel conceded to Judge Politan that AT&T did not meet the filing requirement date. AT&T counsel Mr Whitmer recognized the January 30th 1995 Inga to PSE traffic only transfer on February 6th 1995 and wrote a mere fraudulent use WARNING LETTER.

19) The Inga Companies counsel Charles Helein addressed with AT&T's counsel Fred Whitmer his letter and reminded AT&T counsel that the plans were all pre-June 17th 1994 grandfathered and thus immune from failure to meet revenue and time commitments that his letter speculated would occur. AT&T is thus precluded from raising any defenses under the Inga to PSE traffic only non-plan transfer.

20) If the Commission issues an Order against AT&T on the Inga to PSE traffic only transfer, then the Inga Companies will drop its claims instead of suspending on the CCI/Inga to PSE traffic only transfer.

21)It will also be a much easier transaction to understand for the DC Circuit with just two parties involved instead of three. Furthermore, the Inga to PSE traffic only transfer would have come prior to the CCI/Inga to PSE traffic only transfer anyway as CCI was required under the tariff to post a deposit requirement as it was a new company with no credit history. There was no security deposit requirement on the Inga Companies to PSE traffic only non-plan transfer.

22)The damages on the Inga Companies to PSE traffic only transfer would be greater as it should have taken place prior to the CCI/Inga to PSE traffic only non-plan transfer. Additionally, damages are even more on the Inga Companies to PSE traffic only transfer because under that scenario the Inga Companies continued **as plan owners** and would have been the party damaged in June 1996 for having lost the pre-June 17th 1994 grandfathered plan.

23)Whereas in the transaction that involved CCI as plan holder the Inga Companies via Letter of Agency were only the owners of the end-use account traffic, not the owners of the special and very beneficial pre-June 17th 1994 immune from shortfall and termination charges CSTPII/RVPP plans.

24)Additionally, since it was the Inga Companies direct transaction it would be able to demonstrate that AT&T never claimed to the Inga Companies that there was any issue with section 2.1.8. The Inga Companies president would know what was sent to its office regarding the Inga Companies to PSE traffic only transfer---and there was no denial from AT&T within 15 days that stated the Inga Companies to PSE traffic only transfer was a violation of 2.1.8.

25)As per AT&Ts settlement with CCI in July 1997 that has been entered into the 06-210 case file; AT&T was well aware of Judge Politan's inclusion within the complaint of the Inga to PSE Traffic Only non-plan transfer in January 1995. Thus AT&T in that CCI/ AT&T settlement mandated that CCI aid AT&T in defense of the Inga Companies claims.

26) In summary if the FCC should first determine Judge Bassler's 2006 referral is moot to both the CCI to PSE and the Inga to PSE traffic only transfers as there are no controversies within the scope of the original referral. If the Commission believes there is a controversy, then it should ONLY base its decision on the facts of the Inga Companies to PSE traffic only non-plan transfer.

Al Inga President
Group Discounts, Inc.
One Stop Financial, Inc.
Winback & Conserve Program, Inc.
800 Discounts, Inc.